



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

September 3, 2015

MORTGAGEE LETTER 2015-19

TO **All Lenders Originating and/or Servicing Section 242 Hospital Loans**

SUBJECT **Minimum Responsibilities of Servicers of Section 242 Loans**

Purpose Provide, in a single document, the minimum responsibilities of servicers of Section 242 hospital loans.

Effective Date 90 days after the date of this letter.

Foreword The servicing of Section 242 loans is performed either by the Lender of Record ("Lender") or by another HUD-approved lender under contract with the Lender. In either case, interactions with the borrower put the servicer in a position to monitor the borrower's financial well-being and to share critical information and concerns with the Lender and HUD. Servicers of HUD-insured multifamily and healthcare facility loans perform mostly duties that are usual and customary in the servicing of commercial loans. Performance of these duties protects the interests of the holder of the note, investors, and the insurer of the borrower's debt.

Note that this Letter summarizes the minimum servicer responsibilities for Section 242 loans. Lender internal practices or Lender-Servicer Agreements may include additional responsibilities.

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control numbers 2502-0602, 2502-0041, and 2502-0029. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Servicer Responsibilities The matrix starting on Page 3 describes minimum servicer responsibilities. This material will be incorporated into CHG-2 of Handbook 4615.1 REV-1.

Abbreviations

AE	HUD Account Executive
AR	Accounts Receivable
CM	Construction Manager
CMS	Centers for Medicare/Medicaid Services
CON	State-issued Certificate of Need
DACA	Deposit Account Control Agreement
DEC	HUD Departmental Enforcement Center
DOJ	Department of Justice
GNMA	Government National Mortgage Association
MIP	Mortgage Insurance Premium
MDDR	Multifamily Delinquency and Default Reporting
MRF	Mortgage Reserve Fund
OAE	HUD Office of Architecture and Engineering
OGC	Office of General Counsel
TEFRA	Tax Equity and Fiscal Responsibility Act of 1982
UCC	Uniform Commercial Code
UPB	Unpaid Principal Balance

Event or Frequency	Servicer Responsibility
Initial Endorsement	
Each time a commitment is issued	Review documents prepared by the hospital, HUD, and lender's counsel.
	Coordinate with all parties to assist in fulfilling all conditions precedent to Initial Endorsement and to set a date for closing.
	Confirm that Deposit Account Control agreements (DACA)s are in place at closing for all depository accounts that control the borrower's operating revenues and expenditures.
	Confirm that UCC liens are filed and that all collateral for the HUD-insured loan is securitized for the life of the mortgage.
	Provide the Trustee (for bond transactions) or Lender (for GNMA transactions) with an estimate of the funds required to fund the initial draw and all subsequent draws.
Construction Phase	
Ongoing	Maintain all escrows and deposits required pursuant to the FHA commitment (except reserve funds held in escrow accounts).
	Monitor all insurance policies and bonds issued or received in connection with project and secure timely renewals in accordance with FHA requirements.
	Determine need for extensions, renewals, or releases of letters of credit held by lender pursuant to FHA commitment.
	Perform lender/servicer tasks described in "11-STEP DRAW PROCEDURE" (Ref. Handbook 4615.1 REV-1 CHG-1, Appendix 8, Part I, Section 15).
Event or Frequency	Servicer Responsibility

Hospital requests advance	Review for completeness and correctness and submit to HUD for approval.
Approved advance received from HUD	Obtain evidence that title is clear; arrange funding.
	Obtain title insurance endorsement increasing coverage to the total of all advances.
	Release approved funds to hospital.
Change Order, Line Item Change, or Change of Scope request	Determine change is acceptable to hospital, architect, and HUD.
	Verify source of payment for change.
Request for mortgage increase	Review request to determine if the loan is in balance in accordance with the Building Loan Agreement and if provision has been made for payment of any fees required.
Monthly requisition meeting w/OAE, architect, and CM	Attend, as needed, to review work progress. Always attend preconstruction conference and meetings at end of project to discuss close out procedures.
Loan for new construction or substantial rehabilitation	Confirm that capitalized interest is funded in time to meet bond/mortgage obligations.
Final Endorsement	
Each final endorsement	Assist in cost certification process.
	Coordinate with FHA to assist borrower in fulfilling all conditions precedent to final endorsement, to establish a date for final endorsement, and to assist in causing final endorsement to occur.
	Request borrower to execute and deliver all required FHA mortgage loan documents and to fund all escrows and deposits required by FHA for final endorsement.
Event or Frequency	Servicer Responsibility

Permanent Loan Servicing – Administrative Functions	
Ongoing	Monitor hazard and all other insurance to ensure it is compliant with the requirements set forth in the Mortgage and with the Regulatory Agreement. Ref. 242 Handbook 4615.1 REV-1 Appendix 7 on insurance requirements.
	Invest borrower's money held in reserve funds if requested.
	Conduct ongoing escrow analysis, maintain escrows and pay taxes, insurance, etc.
	Maintain current and complete insured loan files.
Monthly	Collect monthly mortgage payments and forward P&I to investors or bond trustee
Monthly/Annually	Prepare and distribute monthly mortgage loan statement and annual statement of account.
Annually	Make MIP payments
Permanent Loan Servicing – Periodic Monitoring	
Ongoing	Monitor Letters of Credit if any.
Quarterly (monthly for Priority Watch List hospitals)	<p>Identify possible signs of financial weakening or increased risk, such as:</p> <ul style="list-style-type: none"> • Declining utilization • Reductions in reimbursement rates • New lines of credit or letters of credit <ul style="list-style-type: none"> ○ Notify AE if this requires subordination of HUD collateral • Draws on lines or letters of credit • Claims over \$1MM • Mechanic's liens • Loans or advances to/from affiliates <ul style="list-style-type: none"> ○ Notify AE • Transfers of assets <ul style="list-style-type: none"> ○ Notify AE <p>Discuss with AE. Some items will require HUD consent.</p>
Event or Frequency	Servicer Responsibility

Quarterly (monthly for Priority Watch List hospitals)	<p>Identify changes in the hospital's business plans and operations, such as:</p> <ul style="list-style-type: none"> • Changes in senior management or Board <ul style="list-style-type: none"> ○ Remind hospital that Previous Participation Certification (HUD-2530) must be filed • Expansion or reduction in services • Plans to enter into affiliations with other providers <ul style="list-style-type: none"> ○ Notify AE – HUD consent may be required • Changes in capital expenses budget • Certificates of need applied for • Requests for, or receipt of, major grants or contributions <p>Discuss important findings with AE.</p>
Quarterly	Conduct quarterly rating review of banking institutions where more than the FDIC insurance limit is held in escrow by the mortgage servicer.
Quarterly	Ask the borrower whether there is any significant litigation which is not covered by insurance. If so, report that to the AE.
Annually/Quarterly/Monthly Financial statements	Collect annual audited financials and quarterly interim reports. Review and compare to budget. Meet with the hospital's senior finance person quarterly to review financial performance during the year and the quarter. For Watch List hospitals, meet monthly to discuss monthly results. For financially sound hospitals, some meetings may be telephonic but at least one per year should be on site. Troubled hospitals will require more time on site.
Annually	At least annually, review title reports to identify liens or new encumbrances. If found, share information with AE.
	Confirm that Deposit Account Control agreements (DACA)s are in place for all depository accounts that control the borrower's operating revenues and expenditures. If not, inform hospital management and AE that DACAs are needed.
	Confirm that UCC filings are up to date and that all collateral for the HUD-insured loan is securitized for the life of the mortgage.
Event or Frequency	Servicer Responsibility

Annually	Verify that the project has required Fidelity Bond Coverage. If coverage is inadequate, work with management to resolve deficiency. If not resolved, notify AE. Ref. 242 Handbook 4615.1 REV-1 Appendix 7 on insurance requirements.
Annually	Conduct annual physical inspection and provide a written report of results to borrower with copy to AE and OAE.
Any material lack of repair, deterioration, or waste ¹	Notify borrower, AE and OAE.
Event-Driven Risk Management	
Request from Borrower	<p>Process request from borrower to:</p> <ul style="list-style-type: none"> • Modify the note and mortgage • Hold a mortgage under a workout arrangement • Approve transfers of physical assets* • Approve partial releases of lien* • Permit secondary financing <p>Independently review and approve/disapprove. Obtain GNMA review and decision if necessary. Submit to AE.</p> <p>*Determine if remaining collateral is sufficient to cover UPB.</p>
Any casualty loss to the project equal to or greater than one-half of 1% of net plant, property and equipment from last audit	Notify AE.
Any casualty loss that renders any portion of the project unusable for a period of 15 days or more	Notify AE.
Event or Frequency	Servicer Responsibility
Missed lease payment from hospital's operator/lessor (for those hospitals for	Work with AE, borrower, and operator to find out why the payment was not made on time and to develop a plan to

¹ "Waste" is defined in the Security Instrument/ Mortgage/ Deed of Trust. It means a failure to keep the Project in decent, safe and sanitary condition and in good repair. Waste also means the failure to meet certain financial obligations regarding the payment of Taxes and the relinquishment of the possession of Revenues. During any period in which HUD insures the Loan or holds a security interest on the Mortgaged Property, Waste is committed when, without Lender's and HUD's express written consent, Borrower: (1) physically changes, or permits changes to, the Mortgaged Property, whether negligently or intentionally, in a manner that reduces its value; (2) fails to maintain the Mortgaged Property in decent, safe, and sanitary condition and in good repair; (3) fails to pay, or cause to be paid, before delinquency any Taxes secured by a lien having priority over this Security Instrument; (4) materially fails to comply with covenants in the Note, this Security Instrument, Borrower's Regulatory Agreement, or any Loan Document, respecting physical care, maintenance, construction, abandonment, demolition, or insurance against casualty of the Mortgaged Property; or (5) retains possession of Revenues to which Lender or its assigns have the right of possession under the terms of the Loan Documents.

which leasing has been approved)	avoid missed payments in the future.
Legal Judgments, penalties, fines	Talk to hospital management to learn reasons, impact on financial status. If impact is significant, notify AE and get action plan from management for dealing with it.
Notification of termination of any insurance	Work with management to develop action plan, report to AE.
Borrower wants to add or amend an accounts receivable line of credit.	Review loan documents and Intercreditor agreement and submit to AE along with borrower's request.
	Identify reason for requesting addition or amendment and notify AE.
Default on AR loan	Determine why default occurred, review cash flows and ability to cover failing loan, notify AE.
	Work with management to develop action plan, involving AE if necessary.
Unauthorized distribution	Help management develop action plan to deal with this event and to strengthen controls.
Borrower, operator, or management agent files for bankruptcy.	Provide complete information to AE.
	If requested, provide status updates to AE and assist OGC, DEC, and DOJ as needed.
	Advise AE of any knowledge of actions or events that could jeopardize: <ul style="list-style-type: none"> • Hospital's license, CON, or provider agreements • CMS participation • Availability of AR as collateral • Compliance with Regulatory Agreement and Rider to the Regulatory Agreement • Enforceability of mortgage and security instruments

Event or Frequency	Servicer Responsibility
Delinquent mortgage payment	Report through MDDR System as required and notify AE.
	Determine whether to advance funds to cover delinquent mortgage payment.
	Work with borrower and management to determine cause of delinquency.
	Work with management to develop action plan to resolve delinquency. Provide plan to AE.
	Monitor mortgage payments and keep AE informed of circumstances causing delinquency.
Vacating or change in possession of project.	Notify AE
Sale, transfer or condemnation of project.	Notify AE
Non-Performing Loan	
Borrower stops making mortgage payments.	Designate asset manager to work with AE and the HUD Turnaround Team.
	Assess quality of collateral and local market conditions.
	Help borrower develop, implement and track progress of business plans.
	Identify assets that might be able to be liquidated to avoid a claim.
Attempts to return loan to performing status are unsuccessful.	File notice of default and intent to assign. Ref. the Contract of Mortgage Insurance, Part 207, subpart B.

Questions

If you have any questions or concerns regarding this Mortgagee Letter, please contact Kathryn Killeen at 202-402-3119 (kathryn.e.killeen@hud.gov). Persons with hearing or speech impairments may access this number via TDD/TTY by calling 1-800-877-8339.

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